

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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SPENCER PIERCE,

Plaintiff,

v.

HOWARD SKOLNIK, et al.,

Defendants.

Case No. 3:10-cv-00239-MMD-VPC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION
OF MAGISTRATE JUDGE
VALERIE P. COOKE

Before the Court is the Report and Recommendation of United States Magistrate Judge Valerie P. Cooke (dkt. no. 120) ("R&R") relating to Defendants' Motion to Dismiss (dkt. no. 117). Plaintiff had until October 25, 2014, to object to the R&R. No objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the district court when reviewing a report and recommendation to

1 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
2 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
3 view that district courts are not required to review "any issue that is not the subject of an
4 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
5 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
6 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
7 which no objection was filed).


8 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
9 determine whether to adopt Magistrate Judge Cooke's R&R. The Magistrate Judge
10 recommended granting dismissal based upon plaintiff's failure to respond to defendants'
11 motion to dismiss, failure to file a fourth amended complaint, failure to prosecute this
12 action, and failure to file a change of address in accordance with LSR 2-2. Upon
13 reviewing the R&R and underlying briefs, this Court finds good cause to adopt the
14 Magistrate Judge's R&R in full.

15 It is therefore ordered, adjudged and decreed that the Report and
16 Recommendation of Magistrate Judge Valerie P. Cooke (dkt. no. 120) be accepted and
17 adopted in its entirety.

18 It is ordered that plaintiff's complaint is dismissed with prejudice.

19 The Clerk is instructed to close this case.

20 DATED THIS 12th day of March 2015.

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23 _____
24 MIRANDA M. DU
25 UNITED STATES DISTRICT JUDGE
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